

§ 842.811 Deposits for second-level supervisory air traffic controller service performed before February 10, 2004.

(a)(1) *Eligibility—current and former employees, and retirees.* A current or former employee, or a retiree who was employed as a civilian employee of the Department of Transportation or the Department of Defense before February 10, 2004, as the immediate supervisor of a person described in 5 U.S.C. 2109(1)(B) may make a deposit for such service, in a form prescribed by OPM, so that such service may be credited as air traffic controller service for FERS purposes subject to paragraph (h) of this section.

(2) *Eligibility—survivors.* A survivor of a current employee, former employee, or a retiree eligible to make a deposit under paragraph (a)(1) of this section may make a deposit under this section when the current or former employee, or a retiree—

(i) Dies during the period beginning February 10, 2004, and ending November 28, 2006, without submitting an application under this section; or

(ii) Dies after submitting an application to make a deposit under this section within the time limit set out in paragraph (c) of this section without completing a deposit.

(b) *Filing of deposit application.* An individual eligible to make a deposit under paragraph (a) of this section for service described under paragraph (a)(1) of this section must submit a written application to make a deposit for such service with the appropriate office in the agency where such service was performed.

(c) *Time limit for filing application.* An application to make a deposit under this section must be submitted on or before November 28, 2006.

(d)(1) *Amount of deposit.* A deposit under this section shall be computed using distinct periods of service. For the purpose of this section, a distinct period of service means a period of service not interrupted by a break in service of more than 3 days. A deposit may be made for a distinct period of service; however, such a deposit shall be ineffective if deposits are not completed for all distinct periods of service described under paragraph (a) of this section.

(2) The amount of deposit under this section shall be an amount equal to the amount by which the deductions from pay which would have been required under 5 U.S.C. chapter 84, subchapter II, if at the time the service was performed the service had been air traffic controller service exceeds the unrefunded deductions or deposits actually made under 5 U.S.C. chapter 84, subchapter II, with respect to such service, plus interest.

(e)(1) *Interest.* Interest shall be computed as described under paragraphs (2) and (3) of 5 U.S.C. 8334(e). Interest shall be computed for each distinct period of service from the midpoint of the distinct period of service.

(2) The computation of interest is on the basis of 30 days to the month. Interest is computed for the actual calendar time involved in each case.

(f) *Forms of deposit.* A deposit under this section may be made as a single lump sum or in installments.

(g)(1) *Processing deposit applications and payments.* Upon receiving an application for deposit under this section, the agency shall determine whether the application meets the requirements of this section; compute the deposit, including interest; and advise the applicant of the total amount of deposit due.

(2) The agency shall establish a deposit account showing the total amount due and a payment schedule (unless deposit is made in one lump sum) to record the date and amount of each payment.

(3) If an eligible individual cannot make payment in one lump sum, the agency shall accept installment payments (by allotments or otherwise). The agency, however, is not required to accept individual checks in amounts less than \$50.

(4) Payments received by the agency shall be remitted to OPM immediately for deposit to the Civil Service Retirement and Disability Fund.

(5) Once a deposit has been paid in full or otherwise closed out, the agency shall submit the documentation pertaining to the deposit to OPM in accordance with instructions issued by OPM.

(h) *Effect of deposit.* An individual completing a deposit under this section

whose entitlement to an annuity is based on a separation from service on or after February 10, 2004, will receive air traffic controller retirement credit for such service, for annuity entitlement and computation purposes, when OPM receives certification that the deposit has been paid in full, and the deposit payment is remitted to the Civil Service Retirement and Disability Fund.

[70 FR 32710, June 6, 2005]

Subpart I—Nuclear Materials Couriers

SOURCE: 65 FR 2524, Jan. 18, 2000, unless otherwise noted.

§ 842.901 Applicability and purpose.

(a) This subpart contains regulations of the Office of Personnel Management (OPM) to supplement—

(1) 5 U.S.C. 8412(d) and (e), which establish special retirement eligibility for law enforcement officers, members of the Capitol Police and Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, and air traffic controllers employed under the Federal Employees Retirement System (FERS);

(2) 5 U.S.C. 8422(a), pertaining to deductions;

(3) 5 U.S.C. 8423(a), pertaining to Government contributions; and

(4) 5 U.S.C. 8425, pertaining to mandatory retirement.

(b) The regulations in this subpart are issued pursuant to the authority given to OPM in 5 U.S.C. 8461(g) to prescribe regulations to carry out the provisions of 5 U.S.C. chapter 84, in 5 U.S.C. 1104 to delegate authority for personnel management to the heads of agencies and pursuant to the authority given the Director of OPM in section 535(d) of the Department of Homeland Security Appropriations Act, 2008, Division E of Public Law 110–161, 121 Stat. 1844.

[76 FR 42000, July 18, 2011]

§ 842.902 Definitions.

Agency head means the Secretary of Energy. For purposes of this subpart, *agency head* is also deemed to include

the designated representative of the Secretary of Energy, except that the designated representative must be a department headquarters-level official who reports directly to the Secretary of Energy, or to the Deputy Secretary of Energy, and who is the sole such representative for the entire department.

Employee means an employee as defined by 5 U.S.C. 8401(11).

Nuclear materials courier means an employee of the Department of Energy, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security, including an employee engaged in this activity who is transferred directly to a supervisory or administrative position within the same Department of Energy organization, after performing this activity for at least 3 years. (See 5 U.S.C. 8331(27).)

Primary duties means those duties of a position that—

(1)(i) Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;

(ii) Occupy a substantial portion of the individual's working time over a typical work cycle; and

(iii) Are assigned on a regular and recurring basis.

(2) Duties that are of an emergency, incidental, or temporary nature cannot be considered “primary” even if they meet the substantial portion of time criterion. In general, if an employee spends an average of at least 50 percent of his or her time performing a duty or group of duties, they are his or her primary duties.

Primary position means a position that is in an organization of the Department of Energy and whose primary duties are to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security.

Secondary position means a position that—